



06/30/97

770-101

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Attorney's Docket No. 1647/47358

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Box Patent Application
Assistant Commissioner for Patents
Washington, D.C. 20231

NEW APPLICATION TRANSMITTAL

Transmitted herewith for filing is the patent application of
Inventor(s):

GORDON, Scott B.

WARNING: Patent must be applied for in the name(s) of all of the actual inventor(s). 37 CFR 1.41(a) and 1.53(b).

For (title):

AUDIBLE COMMUNICATION WITH A MODEM OVER A WIDE AREA NETWORK

0630598 0630598

CERTIFICATION UNDER 37 CFR 1.10

I hereby certify that this New Application Transmittal and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date June 30, 1997, in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number TB447317816, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Brian Colomey
(type or print name of person mailing paper)

Brian Colomey
Signature of person mailing paper

NOTE: Each paper or fee referred to as enclosed herein has the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 CFR 1.10(b).

WARNING: Certificate of mailing (first class) or facsimile transmission procedures of 37 CFR 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

1. Type of Application

This new application is for a(n)

(check one applicable item below)

- ☒ Original (nonprovisional)
☐ Design
☐ Plant

WARNING: Do not use this transmittal for a completion in the U.S. of an International Application under 35 U.S.C. 371(c)(4), unless the International Application is being filed as a divisional, continuation or continuation-in-part application.

WARNING: Do not use this transmittal for the filing of a provisional application.

NOTE: If one of the following 3 items apply, then complete and attach ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF A PRIOR U.S. APPLICATION CLAIMED and a NOTIFICATION IN PARENT APPLICATION OF THE FILING OF THIS CONTINUATION APPLICATION.

- ☐ Divisional.
☐ Continuation.
☐ Continuation-in-part (C-I-P).

2. Benefit of Prior U.S. Application(s) (35 U.S.C. 119(e), 120, or 121)

NOTE: If the new application being transmitted is a divisional, continuation or a continuation-in-part of a parent case, or where the parent case is an International Application which designated the U.S., or benefit of a prior provisional application is claimed, then check the following item and complete and attach ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION(S) CLAIMED.

WARNING: If an application claims the benefit of the filing date of an earlier filed application under 35 U.S.C. 120, 121 or 365(c), the 20-year term of that application will be based upon the filing date of the earliest U.S. application that the application makes reference to under 35 U.S.C. 120, 121 or 365(c). (35 U.S.C. 154(a)(2) does not take into account, for the determination of the patent term, any application on which priority is claimed under 35 U.S.C. 119, 365(a) or 365(b).) For a c-i-p application, applicant should review whether any claim in the patent that will issue is supported by an earlier application and, if not, the applicant should consider canceling the reference to the earlier filed application. The term of a patent is not based on a claim-by-claim approach. See Notice of April 14, 1995, 60 Fed. Reg. 20,195, at 20,205.

WARNING: When the last day of pendency of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, any nonprovisional application claiming benefit of the provisional application must be filed prior to the Saturday, Sunday, or Federal holiday within the District of Columbia. See 37 C.F.R. § 1.78(a)(3).

- ☐ The new application being transmitted claims the benefit of prior U.S. application(s). Enclosed are ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION(S) CLAIMED.

3. Papers Enclosed That Are Required for Filing Date under 37 C.F.R. 1.53(b) (Regular) or 37 C.F.R. 1.153 (Design) Application

10 Pages of specification

1 Pages of claims

1 Pages of Abstract

2 Sheets of drawing

- ☐ formal
☒ informal

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- ☐ A declaration is made by a person authorized under 37 C.F.R. 1.41(c) on behalf of all the above named inventor(s).

(The declaration or oath, along with the surcharge required by 37 CFR 1.16(e) can be filed subsequently).

NOTE: It is important that all the correct inventor(s) are named for filing under 37 CFR 1.41(c) and 1.53(b).

- ☐ Showing that the filing is authorized.
(not required unless called into question. 37 CFR 1.41(d))

6. Inventorship Statement

WARNING: If the named inventors are each not the inventors of all the claims an explanation, including the ownership of the various claims at the time the last claimed invention was made, should be submitted.

The inventorship for all the claims in this application are:

- ☐ The same.

or

- ☐ Not the same. An explanation, including the ownership of the various claims at the time the last claimed invention was made,
☐ is submitted.
☐ will be submitted.

7. Language

NOTE: An application including a signed oath or declaration may be filed in a language other than English. A verified English translation of the non-English language application and the processing fee of \$130.00 required by '87 CFR 1.17(k) is required to be filed with the application, or within such time as may be set by the Office. 37 CFR 1.52(d).

NOTE: A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 CFR 1.69(b).

- ☒ English
☐ Non-English
☐ The attached translation is a verified translation. 37 C.F.R. 1.52(d).

8. Assignment

- ☒ An assignment of the invention to EMC Corporation
171 South Street, Hopkinton, MA 01758
☒ is attached. A separate ☒ "COVER SHEET FOR ASSIGNMENT (DOCUMENT) ACCOMPANYING NEW PATENT APPLICATION" or ☐ FORM PTO 1595 is also attached.
☐ will follow.

NOTE: "If an assignment is submitted with a new application, send two separate letters—one for the application and one for the assignment." Notice of May 4, 1990 (1114 O.G. 77-78).

WARNING: A newly executed "CERTIFICATE UNDER 37 CFR 3.73(b)" must be filed when a continuation-in-part application is filed by an assignee. Notice of April 30, 1993, 1150 O.G. 62-64.

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- B. ☐ Design application
(\$320.00—37 CFR 1.16(f))

Filing Fee Calculation

\$ _____

- C. ☐ Plant application
(\$530.00—37 CFR 1.16(g))

Filing fee calculation

\$ _____

11. Small Entity Statement(s)

- ☐ Verified Statement(s) that this is a filing by a small entity under 37 CFR 1.9 and 1.27 is (are) attached.

WARNING: "Status as a small entity in one application or patent does not affect any other application or patent, including applications or patents which are directly or indirectly dependent upon the application or patent in which the status has been established. A nonprovisional application claiming benefit under 35 U.S.C. 119(e), 120, 121 or 365(c) of a prior application may rely on a verified statement filed in the prior application if the nonprovisional application includes a reference to a verified statement in the prior application or includes a copy of the verified statement filed in the prior application if status as a small entity is still proper and desired." 37 C.F.R. § 1.28(a).

(complete the following, if applicable)

- ☐ Status as a small entity was claimed in prior application
_____/_____, filed on _____, from which benefit
is being claimed for this application under:

35 U.S.C. ☐ 119(e),
☐ 120,
☐ 121,
☐ 365(c),

and which status as a small entity is still proper and desired.

- ☐ A copy of the verified statement in the prior application is included.

Filing Fee Calculation (50% of A, B or C above)

\$ _____

NOTE: Any excess of the full fee paid will be refunded if a verified statement and a refund request are filed within 2 months of the date of timely payment of a full fee. The two-month period is not extendable under § 1.136. 37 CFR 1.28(a).

12. Request for International-Type Search (37 C.F.R. 1.104(d))

(complete, if applicable)

- ☐ Please prepare an international-type search report for this application at the time when national examination on the merits takes place.

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00005698-063097

13. Fee Payment Being Made at This Time☐ Not Enclosed☐ No filing fee is to be paid at this time.*(This and the surcharge required by 37 C.F.R. 1.16(e) can be paid subsequently.)*☒ Enclosed☒ Basic filing fee \$ 770.00☒ Recording assignment (\$40.00; 37 C.F.R. 1.21(h))
(See attached "COVER SHEET FOR
ASSIGNMENT ACCOMPANYING NEW
APPLICATION".) \$ 40.00☐ Petition fee for filing by other than all the
inventors or person on behalf of the inventor
where inventor refused to sign or cannot be
reached (\$130.00; 37 C.F.R. 1.47 and 1.17(h)) \$ _____☐ For processing an application with a
specification in
a non-English language (\$130.00; 37 C.F.R. 1.52(d) and 1.17(k)) \$ _____☐ Processing and retention fee (\$130.00; 37 C.F.R. 1.53(d) and 1.21(l)) \$ _____☐ Fee for international-type search report (\$40.00; 37 C.F.R. 1.21(e)) \$ _____

NOTE: 37 CFR 1.21(l) establishes a fee for processing and retaining any application that is abandoned for failing to complete the application pursuant to 37 CFR 1.53(d) and this, as well as the changes to 37 CFR 1.53 and 1.78, indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee must be paid, or the processing and retention fee of § 1.21(l) must be paid, within 1 year from notification under § 53(d).

Total fees enclosed \$ 810.00**14. Method of Payment of Fees**☒ Check in the amount of \$ 810.00☐ Charge Account No. _____ in the amount of \$ _____

A duplicate of this transmittal is attached.

NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 CFR 1.22(b).

15. Authorization to Charge Additional Fees

WARNING: If no fees are to be paid on filing, the following items should not be completed.

WARNING: Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges, if extra claim charges are authorized.

- ☒ The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Account No. 04-1105.

☒ 37 C.F.R. 1.16(a), (f) or (g) (filing fees)

☒ 37 C.F.R. 1.16(b), (c) and (d) (presentation of extra claims)

NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 CFR 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

☒ 37 C.F.R. 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)

☒ 37 C.F.R. 1.17 (application processing fees)

WARNING: While 37 CFR 1.17(a), (b), (c) and (d) deal with extensions of time under § 1.136(a), this authorization should be made only with the knowledge that: "Submission of the appropriate extension fee under 37 C.F.R. 1.136(a) is to no avail unless a request or petition for extension is filed." (Emphasis added). Notice of November 5, 1985 (1060 O.G. 27).

☐ 37 C.F.R. 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. 1.311(b))

NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 CFR 1.311(b).

NOTE: 37 CFR 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying, . . . issue fee." From the wording of 37 CFR 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

16. Instructions as to Overpayment

- ☐ Credit Account No. _____
☐ Refund

Reg. No. 34,221

Tel. No. (617) 523-3400



SIGNATURE OF ATTORNEY

Brian L. Michaelis

(type or print name of attorney)

DIKE, BRONSTEIN, ROBERTS & CUSHMAN, LLP

P.O. Address

130 Water Street, Boston, MA 02109

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